

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

**RECEIVED**

**JUN 13 1997**

In the Matter of )  
 )  
Advanced Television Systems )  
and Their Impact upon the )  
Existing Television Broadcast )  
Service )

MM Docket No. 87-268

Federal Communications Commission  
Office of Secretary

**PETITION FOR RECONSIDERATION**

Smith Broadcasting of Santa Barbara Limited Partnership ("Smith"), licensee of Television Broadcast Station KEYT-TV, Santa Barbara, California, by its attorneys, petitions for reconsideration of the Fifth and Sixth Reports and Orders in the captioned proceeding. 1/ Generally, Smith agrees with the Commission's DTV allotment principles and applauds the Commission for its attempt to implement those principles in an even-handed manner. In certain instances, however, the Commission fails to achieve its stated objectives. In the case of KEYT-TV, the Commission has not achieved its goal of DTV replication of KEYT-TV's NTSC coverage.

Smith seeks reconsideration on the limited issue of KEYT-TV's DTV allotment. Specifically, based on the DTV table of allotments proposed by the

---

1/ *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Fifth Report and Order, FCC 97-116 (April 21, 1997); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Sixth Report and Order, FCC 97-115 (April 21, 1997).*

No. of Copies rec'd  
List A B C D E

024

Commission in the *Sixth Report and Order*, Appendix B, (p. B-11), KEYT-TV's population coverage would shrink by approximately 8.4 percent. See Attachment 1 hereto. Based on this significant coverage loss, the Commission failed to adhere to its own policy of service replication with respect to KEYT-TV. Exacerbating the impact of this devastating population coverage loss for KEYT-TV are the comparatively superior allotments provided to KEYT-TV's competitors.

KEYT-TV currently serves as the ABC affiliate operating on NTSC Channel 3, Santa Barbara, California. KEYT-TV's existing facilities serve approximately 1,276,000 people and an area of 45,646 square kilometers. According to the FCC, under the proposed DTV table of allotments, KEYT-TV would provide DTV service on Channel 27 to approximately 1,169,000 people and an area of 42,132 square kilometers. This 8.4 percent loss in population coverage (and 7.7 percent loss of area coverage) represents one of the largest discrepancies between NTSC and DTV population coverage in the entire proposed DTV table of allotments. By contrast, KEYT-TV's competitors, KSBY-TV, the NBC affiliate licensed to San Luis Obispo, California, lost coverage to only 3.4 percent of its current population, and KCOY, the CBS affiliate licensed to Santa Maria, California, actually enjoys improved population coverage (1.9 percent) under the proposed DTV table. A chart illustrating the NTSC and DTV coverage characteristics of KEYT-TV and its competitors is attached as Attachment 1 hereto.

The Commission made the policy decision to strive for service replication as between NTSC and DTV allotments. See *Sixth Report and Order*, ¶¶ 1, 29, 90. The goal of replication is one of the bedrock principles on which the DTV table of allotments

was constructed. *Id.* at ¶¶ 88-90. Significantly, in affirming its decision to retain service replication as a primary guiding factor for DTV allotments, the Commission observed that “this approach will preserve both viewers’ access to the existing stations in their market and stations’ access to their existing populations of viewers . . .”. *Id.* at ¶ 90. In the case of KEYT-TV, the Commission failed to achieve its goal of developing a DTV allotment that would preserve the station’s service and protect viewers’ ability to receive the station. Simply put, an 8.4 percent loss of potential viewers presents an unacceptable lack of replication, particularly where the Commission’s replication efforts were considerably more successful with respect to KEYT-TV’s two major competitors.

KEYT-TV is unable to analyze fully the engineering principles that caused the Commission to reduce KEYT-TV’s population coverage in the DTV table -- nor has KEYT-TV been able to formulate any proposed engineering solutions to this problem -- because the Commission has not yet released OET Bulletin 69. 2/

Smith can do little more than point out the failure of the DTV table, in the case of KEYT-TV, to achieve adequate replication of the station’s NTSC population coverage. In the absence of OET Bulletin 69, it is not possible to prepare an engineering analysis of the DTV table to be used to recommend modification of the table to improve KEYT-TV’s DTV coverage deficit. The Commission’s new rules for evaluating DTV coverage areas refer to OET bulletin in four different contexts:

---

2/ As the Commission is aware, OET Bulletin 69 is essential to identify alternative DTV channel assignments. Therefore, we respectfully request an additional 90 days after release of this bulletin in order to present proposed solutions to KEYT-TV’s coverage problem.

73.622(e) (defining DTV service areas); 73.623(c)(2) (listing minimum technical criteria for modifying DTV allotments); 74.703(a) (specifying interference standards for requests to modify LPTV facilities) and 74.705(e) (specifying interference standards).

Notwithstanding the complexity of drafting a document describing these engineering principles, Smith submits that such principles must have existed at the time the DTV table was developed, and the failure to make those principles available during the period in which parties may seek reconsideration of the DTV table is arbitrary and capricious. It is also unfair to parties, like Smith, who must seek reconsideration while blindfolded. Because OET Bulletin 69 does not yet exist, Smith must make the general request for reconsideration of the DTV table of allotments as it applies to KEYT-TV, and seek the adoption of a DTV allotment for KEYT-TV that more closely approximates the population coverage currently achieved by KEYT-TV's NTSC operation. 3/

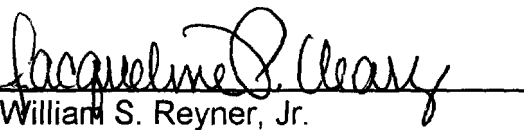
---

3/ Smith notes that it is premature to finalize the DTV table of allotments in Southern California in any event because of inconsistencies with U.S.-Mexican agreements that have not yet been resolved. See *Sixth Report & Order* at n. 368.

In view of the foregoing, Smith requests reconsideration of the captioned orders to the extent necessary to develop a DTV allotment for KEYT-TV that would replicate KEYT-TV's NTSC population coverage.

Respectfully submitted,

SMITH BROADCASTING OF SANTA  
BARBARA LIMITED PARTNERSHIP

By   
William S. Reyner, Jr.  
Jacqueline P. Cleary  
Jeremy B. Miller

Hogan & Hartson L.L.P.  
555 13th Street, N.W.  
Washington, D.C. 20004  
(202) 637-5600

Dated: June 13, 1997

**Attachment 1**

<b><u>Call Sign</u></b>	<b><u>NTSC Population</u></b>	<b><u>DTV Population</u></b>	<b><u>% Difference</u></b>
KEYT-TV	1,276,000	1,169,000	8.4% loss
KSBY-TV	414,000	400,000	3.4% loss
KCOY	368,000	375,000	1.9% gain

<b><u>Call Sign</u></b>	<b><u>NTSC Area</u></b>	<b><u>DTV Area</u></b>	<b><u>% Difference</u></b>
KEYT-TV	45,646 sq. km.	42,132 sq. km.	7.7% loss
KSBY-TV	41,704 sq. km.	40,993 sq. km.	1.7% loss
KCOY	24,814 sq. km.	26,083 sq. km.	5.1% gain